



MAIL STOP APPEAL

BRIEF - PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: D.A. Slawson et al. Attorney Docket No. MSFT112767
Application No: 09/224,009 Group Art Unit: 2176
Filed: December 31, 1998 Examiner: W.L. Bashore
Title: VISUAL THESAURUS

APPELLANTS' APPEAL BRIEF

Seattle, Washington
July 20, 2004

TO THE COMMISSIONER FOR PATENTS:

This brief is in support of a notice of appeal filed in the above-identified application on April 20, 2004, to the Board of Patent Appeals and Interferences, appealing the decisions dated September 15, 2003, and February 2, 2004, of the Primary Examiner rejecting the Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44.

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I. REAL PARTY IN INTEREST

The subject application is owned by Microsoft Corporation of Redmond, Washington.

II. RELATED APPEALS AND INTERFERENCES

Upon information and belief, appellants do not have any knowledge of related appeals or interferences that may directly affect or have a bearing on the decision of the Board of Appeals and Interferences (hereinafter "the Board") in pending appeal.

III. STATUS OF THE CLAIMS

On December 31, 1998, appellants filed the pending patent application along with Claims 1-44. On January 16, 2002, the Examiner issued a first Office Action rejecting Claims 1-44. On April 15, 2002, appellants filed an amendment and response in which Claims 1, 13, 16, 18, 24, 36, 38, and 40 were amended.

On July 8, 2002, the Examiner issued a second Office Action, finally rejecting Claims 1-44. On October 28, 2002, appellants filed an amendment and response in which Claims 1, 6, 16, 18, 24, 29, 38, and 40 were amended; and Claims 10 and 33 were canceled.

On November 6, 2002, the Examiner issued an Advisory Action,¹ rejecting Claims 1-44 and did not enter the proposed amendments. On November 7, 2002, appellants filed a Request for Continuing Examination, submitting by reference the amendment and response filed on October 28, 2001.

On January 30, 2003, the Examiner issued a third Office Action rejecting Claims 1-9, 11-32, and 34-44. On April 30, 2003, appellants filed an amendment and response in which Claims 3, 6-9, 11, 12, 14, 18, 29-32, 34, 35, and 40 were amended; and Claims 13 and 36 were canceled.

¹ The Advisory Action mailed on November 6, 2002 was a "draft" Advisory Action. The Examiner mailed a final version of the same Advisory Action on November 12, 2002.

On July 15, 2003, the Examiner issued a fourth Office Action, finally rejecting Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44. On September 15, 2003, appellants filed a Response to the Final Office Action.

On October 20, 2003, the Examiner issued an Advisory Action still rejecting Claims 1-9, 11, 12, 14-32, 34, 35 and 37-44. On November 12, 2003, appellants filed a Request for Continuing Examination, submitting an amendment and response in which Claims 1, 6-9, 16, 18, 24, 29-32, 38, and 40 were amended.

On February 2, 2004, the Examiner issued a fifth Office Action rejecting Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44. This appeal followed on April 20, 2004. Appellants request the Board to reverse the rejections of Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44. The claims on appeal are set forth in Appendix A.

IV. STATUS OF AMENDMENTS

On April 15, 2002, appellants filed an amendment and response in which Claims 1, 13, 16, 18, 24, 36, 38, and 40 were amended. On November 7, 2002, appellants filed a Request for Continuing Examination, submitting by reference the amendment and response filed on October 28, 2001, in which Claims 1, 6, 16, 18, 24, 29, 38, and 40 were amended; and Claims 10 and 33 were canceled. On April 30, 2003, appellants filed an amendment and response in which Claims 3, 6-9, 11, 12, 14, 18, 29-32, 34, 35, and 40 were amended; and Claims 13 and 36 were canceled. On November 12, 2003, appellants filed a Request for Continuing Examination, submitting an amendment and response in which Claims 1, 6-9, 16, 18, 24, 29-32, 38, and 40 were amended. All of the above amendments have been entered.

V. SUMMARY OF THE INVENTION

Prior to discussing appellants' invention, a brief background of appellants' invention is set forth to help the Board better appreciate appellants' invention discussed thereafter. The

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following background and the discussions of the disclosed embodiments of appellants' invention are not provided to define the scope or interpretation of any of the claims of this application.

A. Background of the Invention

Microsoft CLIP GALLERY is a multimedia application program produced by Microsoft Corporation, Redmond, Washington, for previewing, and inserting into documents, multimedia, such as clip art, pictures, sounds, video clips, and animation art (collectively referred to as "clips"). Information about clips is stored in a catalogue. The catalogue contains a small graphical representation, known as a thumbnail, of the clip, as well as information about the clip, such as the artistic style of the clip, keywords that describe the clip (or some aspect of the clip), categories to which the clip belongs, and the location of the clip. Clips in a CLIP GALLERY catalogue are organized according to type of clip (e.g., sound, video, picture, etc.). A user can also use the CLIP GALLERY program to organize clips by category or keyword. The CLIP GALLERY program can be invoked stand-alone or by another application program, such as Microsoft WORD, also produced by Microsoft Corporation, Redmond, Washington. Within a category (or the entire CLIP GALLERY catalogue), a user may search by manually entering keywords. Application, page 1, line 8 to page 1, line 21.

In the past, it has been difficult to perform successive searches through a large volume of clips included in the catalogues of a CLIP GALLERY program and other similar programs. As a result of this, users often do not succeed in finding the image they need, even if that image is available in the gallery. This result is partially true because many users of such programs are not skilled at formulating complex queries. In many instances, users, even skilled users, do not know what search term(s) to apply because graphics and sounds are difficult to describe in words. As a result, a suitable search tool should be able to accommodate a user who does not know exactly what he or she is looking for, but will "know it when I see it." Additionally, the search tool

should assist a user in finding clips that match an example clip in visual style so that a document can be produced that contains graphics that are consistent in appearance. The present invention is directed to providing such a search tool. Application, page 1, line 22 to page 2, line 10.

B. Summary of the Invention

The invention is directed to a method, apparatus, and computer-readable medium for searching media clip databases associated with a media application program wherein the media clip database includes find similar clips indicia and keywords. Application, page 2, lines 12-17. The find similar clips indicia include hidden criteria that identifies and/or groups media clips ***based on human judgment*** regarding the content of the media clips, such as artistic style, color, or shape. Application, page 10, lines 23-28; page 2, lines 24-27. The find similar clips indicia and the keywords describe associated media clips stored in the media clip database.

The invention provides a method that generally comprises, in response to a user selecting a media clip, retrieving information, including find similar clips indicia and keywords, associated with the selected media clip from the media clip database. Application, page 8, lines 21-34. This form of the method further comprises simultaneously presenting to the user for selection by the user (i) the keywords associated with the selected media clip and (ii) the find similar clips indicia associated with the selected media clip. Application, page 9, line 24 to page 10, line 6. As noted above, the find similar clips indicia includes hidden criteria that identifies and/or groups media clips ***based on human judgment*** regarding the content of the media clips. The method also comprises, in response to the user creating search criteria by selecting one or more of the keywords associated with the selected media clip and/or the find similar clips indicia associated with the selected media clip, retrieving all media clips in the media clip database that match the search criteria created by the user. Application, page 10, lines 17-19; page 11, lines 4-22.

The invention also provides a user interface for a visual thesaurus for a media clip database associated with a multimedia application program. Application, page 7, line 31 to page 9, line 21. The media clip database contains information, including find similar clips indicia and keywords, associated with the media clips included in the media clip database. The find similar clips indicia include hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips. Directly in response to the user selecting a media clip from the media clip database, the method provides for displaying to the user an option for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia human judgment and/or a keyword associated with the selected clip.

The invention also provides a computer-readable medium having computer-executable instructions for performing the foregoing methods. Application, page 6, lines 11-14.

The invention further provides an apparatus for searching a plurality of media clips comprising a processing unit and a storage medium coupled to the processing unit. Application, page 5, lines 30-34. The storage medium stores program code implemented by the processing unit for (i) providing an interface for a user to select a media clip from a media clip database associated with a multimedia application program, wherein the media clip database contains information, including find similar clips indicia and keywords associated with media clips in the media clip database, the find similar clips indicia including hidden criteria that identifies and/or groups media clips *based on human judgment* regarding the content of the media clips; (ii) providing an interface for the user to select search criteria based on find similar clips indicia and/or a keyword associated with the selected media clips; and (iii) in response to the user selecting a media clip and the search criteria, retrieving all media clips in the media clip database

that have associated find similar clips indicia and/or a keyword that matches the selected search criteria for the selected media clip. Application, page 7, lines 22-30.

The invention also provides an apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program wherein the media clip database contains information, including find similar clips indicia and keywords associated with media clips in the media clip database. The find similar clips indicia includes hidden criteria that identifies and/or groups media clips *based on human judgment* regarding the content of the media clips. The apparatus comprises a processing unit and a storage medium coupled to the processing unit. Application, page 5, lines 30-34. The storage medium stores program code implemented by the processing unit for displaying to a user an option for finding similar media clips that have associated find similar clips indicia hidden criteria and/or a keyword that matches an associated keyword for a selected media clip directly in response to the user selecting the media clip. Application, page 7, lines 22-30.

In summary, the method, apparatus, and computer-readable medium incorporating the invention employ two techniques that can be used separately or together to select media clips from a media clip database keywords associated with a media clip being viewed and/or a find similar clips indicia that includes hidden criteria (i.e., criteria not observable by a user and not changeable by a user) that identifies and/or groups media clips *based on human judgment* regarding the content of the media clips. As noted above, examples of find similar clips indicia having hidden criteria are artistic style, color, and shape. These find similar clips indicia have hidden criteria that, as noted above, cannot be modified by a user.

C. Explanation of the Invention Defined in the Claims

Regarding the claims, independent Claim 1 is directed to a method of searching a media clip database associated with a multimedia application program. The media clip database

contains information, including keywords and find similar clips indicia associated with media clips included in the media clip database. The find similar clips indicia include hidden criteria that identifies and/or groups media clips ***based on human judgment*** regarding the content of the media clip. The method includes, in response to a user selecting a media clip, retrieving information, including find similar clips indicia and keywords, associated with a selected media clip from a media clip database. The method further includes simultaneously presenting to the user for selection by the user (i) the keywords associated with the selected media clip and (ii) the find similar clips indicia associated with the selected media clip. Additionally, the method includes, in response to the user creating search criteria by selecting one or more of the keywords and/or the find similar clips indicia associated with the selected media clip, retrieving all media clips in the media clip database that match the search criteria created by the user.

Claims 2-9, 11, 12, 14, and 15 are dependent from independent Claim 1 and are directed to further limitations of the method described above. Claim 2 depends from Claim 1 and recites further comprising presenting a user with all of the retrieved clips. Claim 3 depends from Claim 2, and recites further comprising, in response to a user selecting one of the retrieved clips and the user creating a search criteria for the newly selected clip, retrieving all clips in the clip database that match the search criteria for the newly selected media clip. Claim 4 depends from Claim 1 and recites further comprising presenting a plurality of media clips available for selection to a user. Claim 5 depends from Claim 4 and recites wherein the media clips are based on a media type. Claim 6 depends from Claim 1 and recites wherein ***the human judgment*** is based on artistic style. Claim 7 depends from Claim 1 and recites wherein ***the human judgment*** is based on color. Claim 8 depends from Claim 1 and recites wherein ***the human judgment*** is based on shape. Claim 9 depends from Claim 1 and recites wherein ***the human judgment*** is based on both color and shape. Claim 11 depends from Claim 1 and recites wherein the

keywords are a list of keywords. Claim 12 depends from Claim 1 and recites wherein the keywords designate the format of the clip. Claim 14 depends from Claim 1 and recites wherein the retrieving all clips in the clip database that match the search criteria created by the user applies only to clips having a media type that matches the media type of the selected media clip. Claim 15 recites a computer-readable medium having computer-executable instructions for performing the method recited in any one of Claims 1-9, 11, 12, or 14.

Independent Claim 16 is directed to a method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program. The media clip database contains information, including find similar clips indicia and keywords associated with media clips included in the media clip database. The find similar clips indicia include hidden criteria that identify and/or group media clips *based on human judgment* regarding the content of the media clip. The method includes, directly in response to a user selecting a media clip from the media clip database, displaying to the user an option for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment, and/or a keyword associated with the selected clip.

Claims 17-23 depend from independent Claim 16, and are directed to further limitations of the method described above. Claim 17 depends from Claim 16 and recites wherein the user interface comprises (a) a graphical indication of the selected clip and (b) a button for the option for finding similar clips to the selected clip. Claim 18 depends from Claim 16 and recites further comprising, in response to the user selecting the option for finding similar clips, displaying means for the user to select search criteria for finding similar clips, wherein the search criteria includes a keyword that matches the find similar clips indicia, human judgment, and/or a keyword associated with the selected clip. Claim 19 depends from Claim 18 and recites wherein

means for the user to select search criteria for finding similar clips is a fly-out window. Claim 20 depends from Claim 16 and recites further comprising displaying to the user an option for inserting the selected clip into a document. Claim 21 depends from Claim 16 and recites further comprising displaying to the user an option for previewing the selected clip. Claim 22 depends from Claim 16 and recites further comprising displaying to the user an option to add the clip to one or more categories. Claim 23 recites a computer-readable medium having computer-executable instructions for performing the method recited in any one of Claims 16-22.

Independent Claim 24 is directed to an apparatus for searching a plurality of media clips. The apparatus includes a processing unit, and storage medium coupled to the processing unit. Storage medium storing program code is implemented by the processing unit for (1) providing an interface for a user to select a media clip from a media clip database associated with the multimedia application program, wherein the media clip database contains information, including find similar clips indicia and keywords associated with media clips in the media clip database, the find similar clips indicia includes hidden criteria that identifies and/or groups media clips ***based on human judgment*** regarding the contents of the media clip; (2) providing an interface for the user to select search criteria based on find similar clips indicia and/or the keyword associated with the selected media clip; and (3) in response to the user selecting the media clip and the search criteria, retrieving all media clips in the media clip database that have associated find similar clips indicia and/or a keyword that matches the selected search criteria for the selected media clip.

Claims 25-32, 34, 35, and 37 depend from Claim 24, and are directed to further limitations of the apparatus described above. Claim 25 depends from Claim 24, and recites wherein the program code further presents a user with all of the retrieved clips. Claim 26 depends from Claim 25, and recites wherein the program code further retrieves all clips in the

clip database that match a search criteria for a newly selected media clip, in response to a user selecting one of the retrieved clips and the user selecting the search criteria for the newly selected clip. Claim 27 depends from Claim 24, and recites wherein the program code further presents a plurality of media clips available for selection to a user. Claim 28 depends from Claim 27, and recites wherein the media clips are based on a media type. Claim 29 depends from Claim 24 and recites wherein *the human judgment* is based on artistic style. Claim 30 depends from Claim 24 and recites wherein *the human judgment* is based on color. Claim 31 depends from Claim 24, and recites wherein *the human judgment* is based on shape. Claim 32 depends from Claim 24 and recites wherein *the human judgment* is based on color and shape. Claim 34 depends from Claim 24, and recites wherein the keywords are a list of keywords. Claim 35 depends from Claim 24 and recites wherein the keywords designate the format of the clip. Claim 37 depends from Claim 24, and recites wherein retrieving all clips in the clip database that match the search criteria for the selected media clip applies only to clips having a media type that matches the media type of the selected media type.

Independent Claim 38 is directed to an apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program. The media clip database contains information, including find similar clips indicia and keywords associated with media clips in the media clip database, the find similar clips indicia including hidden criteria that identifies and/or groups media clips *based on human judgment* regarding the content of the media clip. The apparatus includes a processing unit, and a storage medium coupled to the processing unit. The storage medium storing program code is implemented by the processing unit for displaying to a user an option for finding similar media clips that have associated find similar clips indicia hidden criteria, and/or a keyword that matches an associated keyword for a selected media clip, directly in response to a user selecting a media clip.

Claims 39-44 depend from Claim 38, and are directed to further limitations of the apparatus described above. Claim 39 depends from Claim 38, and recites wherein the user interface includes the graphical indication of the selected clip and a button for the option for finding similar clips to the selected clip. Claim 40 depends from Claim 38 and recites wherein the program code displays means for a user to select search criteria that is based on find similar clips indicia and/or a keyword associated with the selected clip for finding similar clips, in response to the user selecting the option for finding similar clips. Claim 41 depends from Claim 40 and recites wherein means for the user to select search criteria for finding similar clips is a fly-out window. Claim 42 depends from Claim 38, and recites wherein the program code further displays to the user an option for inserting the selected clip into a document. Claim 43 depends from Claim 38, and recites wherein the program code further displays to the user an option for previewing the selected clip. Claim 44 depends from Claim 38 and recites wherein the program code further displays to the user an option to add the clip to one or more categories.

VI. ISSUES PRESENTED FOR REVIEW

The last Office Action in this patent application, dated February 2, 2004 (hereinafter "Office Action"), rejected Claims 1-9, 11-12, 14-32, 34-35, and 37-44 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,493,677, issued to Balogh et al. ("Balogh"), in view of U.S. Patent No. 5,696,964, issued to Cox et al. ("Cox"). Appellants disagree. Thus, the issues for review are as follows:

- (a) Whether independent Claim 1 is unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;
- (b) Whether dependent Claims 2-15 are unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;

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(c) Whether independent Claim 16 is unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;

(d) Whether dependent Claims 17-23 are unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;

(e) Whether independent Claim 24 is unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;

(f) Whether dependent Claims 25-32, 34, 35, and 37 are unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox;

(g) Whether independent Claim 38 is unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox; and

(h) Whether dependent Claims 39-44 are unpatentable under 35 U.S.C. § 103(a) over Balogh in view of Cox.

As will be discussed below, the Examiner has failed to establish a *prima facie* case of obviousness. To establish *prima facie* obviousness in a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143. All of the independent claims in this application (1, 16, 24, and 38) recite that the find similar clips indicia includes hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips. This subject matter is not taught or even remotely suggested by either of the references cited and applied in the final Office Action—Balogh et al. and Cox et al.—either alone or in combination. For a better appreciation of the arguments below, appellants summarize each cited and applied reference.

A. Summary of Balogh et al.

Balogh, referring to FIGURE 3, generally discloses retrieving images using a natural language query. Digitized images are associated with English language captions and other data,

collectively known as the metadata 262 associated with the images 250. Col. 3, lines 17-43; Col. 8, lines 64-67. A natural language processing database removes ambiguities from the metadata, and the images in the metadata are stored in databases. Col. 3, lines 44-48. A user forms a search query, and natural language processing is used to determine matches between the query and the stored metadata. Col. 11, lines 60-67. Captions and corresponding images that match queries are returned to the user. Col. 14, lines 3-8. Once some initial matching captions are retrieved for the user and reviewed along with their corresponding images, further searches may be made by the user dragging the image (and the data) into a new query. Col. 14, lines 40-59. Images corresponding to the matches are then viewed, and desired images are selected for licensing. The license terms for selected images are displayed and a subset of the selected images is ordered as desired by the user. In summary, Balogh discloses retrieving images using a natural language interface and English language metadata associated with the image.

Balogh does not disclose retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from the database, in response to a user selecting a media clip. Balogh also does not disclose displaying keywords associated with a selected multimedia clip for selection by a user for subsequent searching. Further, *Balogh does not disclose find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip.*

B. Summary of Cox et al.

Cox, referring to FIGURE 10, is generally directed toward a multimedia database retrieval system that maintains a "posterior probability distribution" that each item in the database is the target of a search. Col. 4, lines 42-64. Cox discloses a queryless multimedia database search method, which incorporates a Bayesian interface engine that refines its answer

with each user response. Col. 2, lines 18-34. Referring to FIGURE 2, the set of user responses includes a set of images (4 as shown) and user actions ("GO," "FOUND," and "ABORT" buttons), and is defined by a relatively simple user interface. The system maintains a posterior probability distribution that each image in a multimedia database is the target of the search. This distribution is used to select the next images to display to the user and solicits selections from the user pertaining to images displayed. The user's selections are then incorporated into the posterior distribution via a probabilistic user model. Col. 4, line 42 to Col. 5, line 4; FIGURE 10. In summary, Cox discloses a queryless multimedia database retrieval method and system that maintain a posterior probability distribution for use in selecting the next images to display to the user. Cox discloses an entirely software driven selection system. *No human judgment* is involved in the criteria used to identify clips based on user selection. Col. 6, lines 1-23 (TABLE 1).

VII. GROUPING OF CLAIMS

Claims 1-9, 11, 12, and 14-15 stand or fall together; Claims 16-23 stand or fall together; Claims 24-32, 34, 35, and 37 stand or fall together; and Claims 38-44 stand or fall together. The reasons why the four groups of claims are believed to be separately patentable are explained above and are further expounded below in the argument.

VIII. ARGUMENT

As discussed in greater detail below, the claims of the present application are clearly patentably distinguishable over the teachings of the above-cited references. The present invention is directed to a method, apparatus, and computer-readable medium for searching media clip databases associated with a media application program wherein the media clip database includes find similar clips indicia and keywords. The find similar clips indicia include hidden criteria that identifies and/or groups media clips based on human judgment regarding the content

of the media clips, such as artistic style, color, or shape. The find similar clips indicia and the keywords describe associated media clips stored in the media clip database.

As noted above, the Office Action rejected Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44 Under 35 U.S.C. § 103(a) as being unpatentable over Balogh in view of Cox. As also noted above, appellants disagree. The cited references simply fail to teach or suggest all of the limitations of the independent claims, and much less the recitations of the dependent claims. These claims particularly point out and distinctly claim subject matter that appellants regard as their invention, which is clearly patentably distinguishable from the cited and applied references.

A. Rejection of Independent Claim 1 Under 35 U.S.C. § 103(a)

The Office Action rejected Claim 1 under 35 U.S.C. § 103(a) over Balogh in view of Cox. The Office Action states that Balogh teaches:

(1) "an application program comprising [a] plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects" (which the Office Action compares with "A method for searching a media clip database associated with a multimedia application program, wherein said media clip data base contains . . . that describes each associated media clip in said media clip data base, comprising:" as recited in Claim 1);

(2) "a 'captioner' which provides metadata in the form of a caption describing salient features of an image, bibliographic data, 'suggest fields' and attributes of said image, for each image" (which the Office Action compares with "keywords," as recited in Claim 1);

(3) "a user performing an initial query . . . , resulting in retrieval of captions with images along with associated information" (which the Office Action compares with "(a) in response to a user selecting a media clip, retrieving information, including find similar clips indicia and

keywords, associated with said selected media clip from said media clip database," as recited in Claim 1);

(4) "presenting the above captions, images, and information to a user for eventual query" (which the Office Action compares with "(b) simultaneously presenting to the user for selection by the user: (i) said keywords associated with said selected media clip;" as recited in Claim 1);

(5) "image related criteria using human judgment via the use of a human 'captioner,' which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the images, as well as recording evoked emotional suggestions regarding said image" (which the Office Action compares with "based on human judgment regarding the content of the media clip," as recited in Claim 1); and,

(6) "an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query" (which the Office Action compares with "(c) in response to the user [creating] search criteria by selecting one or more of said keywords and/or find similar clips indicia associated with said selected media clip, retrieving all media clips in said media clip database that match the search criteria created by the user," as recited in Claim 1).

The Office Action admits that Balogh fails to teach hidden criteria. The Office Action cites Cox as teaching "PicHunter, a media searching tool comprising a GUI interfaced with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button 'GO', after which said invention searches and presents a second set of images similar to what was initially selected." The Office Action states, "Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e., color, shape, etc.) inherent within said image along with

various noted (hidden) features of each image (i.e., contrast, saturation, etc.), are used as a search criteria by the system," (which the Office Action compares with "including hidden criteria that identifies and/or groups media clips," as recited in Claim 1).

The Office Action states: "It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user)." Appellants disagree. To establish a *prima facie* case of obviousness, there must be some suggestion or motivation to combine the reference teachings, there must be a reasonable expectation of success, and the prior art references must teach or suggest all the claim limitations. M.P.E.P. § 2143.

Claim 1 recites:

1. A method of searching a media clip database associated with a multimedia application program, wherein said media clip database contains information, including keywords and find similar clips indicia associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said method comprising:

(a) in response to a user selecting a media clip, retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from said media clip database;

(b) simultaneously presenting to the user for selection by the user:

(i) said keywords associated with said selected media clip; and

(ii) said find similar clips indicia associated with said selected media clip; and

(c) in response to the user creating search criteria by selecting one or more of said keywords and/or said find similar clips indicia associated with said selected media clip, retrieving all media clips in said media clip database that match the search criteria created by the user.

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1. There Is No Motivation to Combine the Cited References

There is no motivation to combine Balogh and Cox to arrive at the claimed invention. Balogh is generally directed to a system and process for retrieving images using a natural language query and English language metadata associated with the image. In contrast, Cox is directed to a queryless multimedia database retrieval method and system that maintain a posterior probability distribution for use in selecting the next images to display to the user. There is no motivation for one of ordinary skill in the art to combine the teachings of a system for retrieving images using a language query with the teachings of a method of finding items based on a probability distribution over the items.

2. The Cited References, Even if Combined for the Sake of Argument, Still Fail to Teach or Suggest All of the Claim Limitations

The cited references, even if combined for the sake of argument, still fail to teach or suggest all of the limitations included in Claim 1. First, appellants disagree with the Office Action's discussion of the teachings of Balogh. Balogh fails to teach or suggest "in response to a user selecting *a media clip*, retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from said media clip database." Referring to FIGURE 10, a flow diagram for a search engine process in accordance with the Balogh is shown. This flow diagram teaches a query arriving at an index service 1001, formulating a query 1012, matching the query against index data 1013, and returning matching images 1014. The query in Balogh begins with a user's input using standard keyword searching techniques. See, Col. 12, lines 9-11. Further, Col. 11, lines 53-67 state:

For example, a user may type a query in ordinary English, such as "red trucks". Additionally, a user may enter query data into bibliographic fields, specifying, for example, images produced by a particular artist or agency. Finally, a user may also limit a query based on image

characteristics, such as predominant hue or image type, as described above in connection with FIG. 6.

Thus, Balogh teaches returning matches based only on words or language entered in a query. In contrast, the present invention teaches *beginning with a media clip* (rather than words or language), and retrieving information "in response to a user selecting a media clip."

Further, Balogh fails to teach or suggest "in response to the user creating search criteria *by selecting* one or more of said keywords and/or said find similar clips indicia associated with said selected media clip, retrieving all media clips in said media clip database that match the search criteria created by the user." While Balogh purportedly teaches that information inquiries are processed as in conventional keyword searching techniques (Col. 12, lines 9-11), and that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59), Balogh does not disclose displaying keywords associated with a selected multimedia clip *for selection* by a user for subsequent searching.

Finally, and most importantly, as the Office Action admits, Balogh does not teach or suggest a "find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip," such as, for example, artistic style criteria, color criteria, or shape criteria. At most, Balogh teaches that a "captioner" verifies the quality of the image data and the bibliographic data, and writes a short "caption," or a description of the salient features of the image, and to select certain attributes of the image. See, Col. 3, lines 21-29. Col. 3, lines 29-43 go on to state:

The attributes may include, for example the type of image (photograph, computer-generated graphic, video clip, or other multimedia object, background pattern, portrait, abstract, aerial, or special effect), predominant hue, and image orientation (landscape or portrait). The captioner also provides as part of the metadata a suggest text field describing the emotional suggestions evoked by the image.... Collectively, the bibliographic data, the caption, the attributes and the suggests field are known as the 'metadata' associated with the image.

As the Office Action admits, the "caption" that identifies and/or groups media clips is not "hidden criteria." See also FIGURE 12; Col. 16, lines 40-62 ("match list command area 1212 also permit the user to alter the display to provide additional information about the matches, such as bibliographical information").

Cox also fails to teach or suggest "a media clip database associated with a multimedia application program, wherein said media clip database contains information, including keywords and find similar clips indicia associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip." Cox discloses a queryless multimedia database retrieval method and system that maintain a posterior probability distribution for use in selecting the next images to display to the user. See, Col. 2, lines 19-34. The selection system disclosed in Cox is entirely software driven and based upon probability distribution. No human judgment is involved in the criteria used to identify clips based on user selection. See, e.g., Col. 6, lines 1-22 (Table 1).

In contrast, referring to FIGURE 2B, the *hidden criteria* described in the present invention identifies and/or groups media clips *based on human judgment* regarding the content of the media clips, such as artistic style 92, color or shape 94. The hidden criteria are stored in the clip catalogue when the clip is added to the catalogue. The hidden criteria are not changeable by a user. Further, the hidden criteria are not displayed to a user. Only the broad indicia--artistic style, color, or shape--are displayed. See, e.g., Application, page 10, lines 26-31.

B. Rejection of Dependent Claims 2-15 Under 35 U.S.C. § 103(a)

With respect to Claims 2-15, all of which depend directly or indirectly from Claim 1, it is clear that the subject matter of these claims is also not taught or suggested by the cited and applied references, namely, Balogh or Cox. Claims 2-15 all have limitations that are clearly not

taught or suggested by any of the cited and applied references, particularly when the limitations are considered in combination with these recitations of the claims from which these claims individually depend. Thus, Claims 2-15 are submitted to be allowable for reasons in addition to the reasons why Claim 1 is submitted to be allowable.

C. Rejection of Independent Claim 16 Under 35 U.S.C. § 103(a)

The Office Action rejected Claim 16 under 35 U.S.C. § 103(a) over Balogh in view of Cox. The Office Action states Balogh teaches: (1) "an application program comprising [a] plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects" and "associated data regarding what a particular media images suggests, which is indicative of a visual thesaurus" (which the Office Action appears to compare with "A method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information, including find similar clips indicia and keywords associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said method comprising:" as recited in Claim 16);

(2) "a 'captioner' which provides metadata in the form of a caption describing salient features of an image, bibliographic data, 'suggest fields' and attributes of said image, for each image" (which the Office Action compares with "keywords," as recited in Claim 16);

(3) "a user performing an initial query . . . , resulting in retrieval of captions with images along with associated information presenting said captions, images and information to a user" (which the Office Action compares with "directly in response to a user selecting a media clip from said media clip database," as recited in Claim 16);

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(4) "an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query" (which the Office Action appears to compare with "displaying to the user an option for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip," as recited in Claim 16); and

(5) "image related criteria using human judgment via the use of a human 'captioner,' which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the images, as well as recording evoked emotional suggestions regarding said image" (which the Office Action compares with "based on human judgment regarding the content of the media clip," as recited in Claim 16).

The Office Action admits that Balogh fails to teach hidden criteria. The Office Action cites Cox as teaching "PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button 'GO', after which said invention searches and presents a second set of images similar to what was initially selected." The Office Action states, "Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented" (which the Office Action compares with "find similar clips indicia including hidden criteria . . . , " as recited in Claim 16).

The Office Action states that it would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user). Appellants disagree.

Claim 16 recites:

16. A method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information, including find similar clips indicia and keywords associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said method comprising:

directly in response to a user selecting a media clip from said media clip database, displaying to the user an option for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip.

1. There Is No Motivation to Combine the Cited References

As discussed above in Part VIII.A.1, there is no motivation to combine Balogh and Cox to arrive at the claimed invention.

2. The Cited References, Even if Combined for the Sake of Argument, Still Fail to Teach or Suggest All of the Claim Limitations

The cited references, even if combined for the sake of argument, still fail to teach or suggest all of the limitations included in Claim 16. First, appellants disagree with the Office Action's discussion of the teachings of Balogh. Balogh fails to teach or suggest "directly in response to a user selecting *a media clip* from said media clip database, displaying to the user *an option* for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip." Referring to FIGURE 10, a flow diagram for a search engine process in accordance with the Balogh reference is shown. This flow diagram teaches a query arriving at an index service 1001, formulating a query 1012, matching the query against index data 1013, and

returning matching images 1014. The query in Balogh begins with a user's input using standard keyword searching techniques. See, Col. 12, lines 9-11. Further, Col. 11, lines 53-67 state:

For example, a user may type a query in ordinary English, such as "red trucks". Additionally, a user may enter query data into bibliographic fields, specifying, for example, images produced by a particular artist or agency. Finally, a user may also limit a query based on image characteristics, such as predominant hue or image type, as described above in connection with FIG. 6.

Thus, Balogh teaches returning matches based only on words or language entered in a query. In contrast, the present invention teaches *beginning with a media clip* (rather than words or language), and retrieving information "directly in response to a user selecting a media clip."

Balogh purportedly teaches that information inquiries are processed as in conventional keyword searching techniques (Col. 12, lines 9-11), and that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59). However, Balogh does not disclose displaying to the user *an option* (for selection) for finding similar clips, without entering a new query with new search language.

In addition, and more importantly, as described above in Part VIII.A.2, the Office Action admits that Balogh does not teach or suggest "find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip," such as, for example, artistic style criteria, color criteria, or shape criteria. As fully discussed in Part VIII.A.2, this Balogh deficiency is not cured by the teaching of Cox.

D. Rejection of Dependent Claims 17-22 Under 35 U.S.C. § 103(a)

With respect to Claims 17-22, all of which depend directly or indirectly from Claim 16, it is clear that the subject matter of these claims is also not taught or suggested by the cited and applied references, namely, Balogh or Cox. Claims 17-22 all have limitations that are clearly not taught or suggested by any of the cited and applied references, particularly when the limitations

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are considered in combination with these recitations of the claims from which these claims individually depend. Thus, Claims 17-22 are submitted to be allowable for reasons in addition to the reasons why Claim 16 is submitted to be allowable.

E. Rejection of Independent Claim 24 Under 35 U.S.C. § 103(a)

The Office Action rejected Claim 24 under 35 U.S.C. § 103(a) over Balogh in view of Cox. The Office Action states that Balogh teaches:

(1) "data entry, disambiguation, and database processors within a SUN SPARCSTATION" (which the Office Action compares with "a processing unit," as recited in Claim 24);

(2) "a computer readable medium (i.e., diskette or hard drive) used for holding instructions and utilized within a computer" (which the Office Action appears to compare with "a storage medium coupled to the processing unit, the storage medium storing program code implemented by the processing unit," as recited in Claim 24);

(3) "an application program comprising [a] plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects, said clips subject to user query and selection" (which the Office Action compares with "providing an interface for a user to select a media clip . . . in said media clip database," as recited in Claim 24);

(4) "a 'captioner' which provides metadata in the form of a caption describing salient features of an image, bibliographic data, 'suggest fields' and attributes of said image, for each image" (which the Office Action compares with "keywords," as recited in Claim 24);

(5) "image related criteria using human judgment via the use of a human 'captioner,' which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the images, as well as recording evoked emotional suggestions

regarding said image" (which the Office Action compares with "based on human judgment regarding the content of the media clip," as recited in Claim 24); and

(6) "a user performing an initial query . . . , resulting in retrieval of captions with images along with associated information, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query" (which the Office Action appears to compare with "(ii) providing an interface for the user to select search criteria based on find similar clips indicia and/or a keyword associated with said selected media clip; and (iii) in response to the user selecting the media clip and the search criteria, retrieving all media clips in the media clip database that have associated find similar clips indicia and/or a keyword that matches the selected search criteria for the selected media clip," as recited in Claim 24).

The Office Action admits that Balogh fails to teach hidden criteria. The Office Action cites Cox as teaching "PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button 'GO', after which said invention searches and presents a second set of images similar to what was initially selected." The Office Action states, "Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented" (which the Office Action compares with "find similar clips indicia including hidden criteria that identifies and/or groups media clips," as recited in Claim 24).

The Office Action states that it would have been obvious for one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user). Appellants disagree.

Claims 24 recites:

24. An apparatus for searching a plurality of media clips, comprising:

(a) a processing unit; and
(b) a storage medium coupled to the processing unit, the storage medium storing program code implemented by the processing unit for:

(i) providing an interface for a user to select a media clip from a media clip database associated with a multimedia application program, wherein said media clip database contains information, including find similar clips indicia and keywords associated with media clips in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said apparatus;

(ii) providing an interface for the user to select search criteria based on find similar clips indicia and/or a keyword associated with said selected media clip; and

(iii) in response to the user selecting the media clip and the search criteria, retrieving all media clips in the media clip database that have associated find similar clips indicia and/or a keyword that matches the selected search criteria for the selected media clip.

1. There Is No Motivation to Combine the Cited References

As discussed above in Part VIII.A.1, there is no motivation to combine Balogh and Cox to arrive at the claimed invention.

2. The Cited References, Even if Combined for the Sake of Argument, Still Fail to Teach or Suggest All of the Claim Limitations

The cited references, even if combined for the sake of argument, still fail to teach or suggest all of the claim limitations in Claim 24. First, appellants disagree with the Office Action's discussion of the teachings of Balogh. Balogh fails to teach or suggest "providing an interface for a user to select *a media clip* from a media clip database associated with a multimedia application program." Referring to FIGURE 10, a flow diagram for a search engine

process in accordance with the Balogh is shown. This flow diagram teaches a query arriving at an index service 1001, formulating a query 1012, matching the query against index data 1013, and returning matching images 1014. The query in Balogh begins with a user's input using standard keyword searching techniques. See, Col. 12, lines 9-11. Further, Col. 11, lines 53-67 state:

For example, a user may type a query in ordinary English, such as "red trucks". Additionally, a user may enter query data into bibliographic fields, specifying, for example, images produced by a particular artist or agency. Finally, a user may also limit a query based on image characteristics, such as predominant hue or image type, as described above in connection with FIG. 6.

Thus, Balogh teaches returning matches based only on words or language entered in a query. In contrast, the present invention teaches *beginning with a media clip* (rather than words or language), and retrieving information "in response to a user selecting a media clip."

Further, Balogh fails to teach or suggest "providing an interface for the user *to select* search criteria based on find similar clips indicia and/or a keyword associated with said selected media clip." While Balogh purportedly teaches that information inquiries are processed as in conventional keyword searching techniques (Col. 12, lines 9-11), and that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59), Balogh does not disclose keywords associated with a selected media clip *for selection* by a user for subsequent searching.

Finally, and more importantly, as described above in Part VIII.A.2, the Office Action admits that Balogh does not teach or suggest "find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip," such as, for example, artistic style criteria, color criteria, or shape criteria. As fully discussed in Part VIII.A.2., this Balogh deficiency is not cured by the teaching of Cox.

F. Rejection of Dependent Claims 25-32, 34-35, and 37 Under 35 U.S.C. § 103(a)

With respect to Claims 25-32, 34-35, and 37, all of which depend directly or indirectly from Claim 24, it is clear that the subject matter of these claims is also not taught or suggested by the cited and applied references, namely, Balogh or Cox. Claims 25-32, 34-35, and 37 all have limitations that are clearly not taught or suggested by any of the cited and applied references, particularly when the limitations are considered in combination with these recitations of the claims from which these claims individually depend. Thus, Claims 25-32, 34-35, and 37 are submitted to be allowable for reasons in addition to the reasons why Claim 24 is submitted to be allowable.

G. Rejection of Independent Claim 38 Under 35 U.S.C. § 103(a)

The Office Action rejected Claim 38 under 35 U.S.C. § 103(a) over Balogh in view of Cox. The Office Action states that Balogh teaches:

(1) "an application program comprising [a] plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects" (which the Office Action appears to compare with "An apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein the media clip database contains information, . . . associated with media clips in said media clip database," as recited in Claim 38);

(2) "a 'captioner' which provides metadata in the form of a caption describing salient features of an image, bibliographic data, 'suggest fields' and attributes of said image, for each image" (which the Office Action compares with "keywords," as recited in Claim 38);

(3) a "data entry, disambiguation, and database processors within a SUN SPARCSTATION" (which the Office Action compares with "a processing unit," as recited in Claim 38);

(4) "a computer readable medium (i.e., diskette or hard drive) used for holding instructions and utilized within a computer[?]" (which the Office Action appears to compare with "a storage medium coupled to the processing unit, the storage medium storing program code implemented by the processing unit," as recited in Claim 38);

(5) "a user performing an initial query . . . , resulting in retrieval of captions with images along with associated information presenting said captions, images and information to a user, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query" (which the Office Action appears to compare with "displaying to a user an option for finding similar media clips that have associated find similar clips indicia hidden criteria, and/or a keyword that matches an associated keyword for a selected media clip, directly in response to the user selecting the media clip," as recited in Claim 38); and

(6) "image related criteria using human judgment via the use of a human 'captioner,' which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the images, as well as recording evoked emotional suggestions regarding said image" (which the Office Action compares with "based on human judgment regarding the content of the media clip," as recited in Claim 38).

The Office Action admits that Balogh fails to teach hidden criteria. The Office Action cites Cox as teaching "PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button 'GO', after which said invention searches and presents a second set of images similar to what was initially selected." The Office Action states, "Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented" (which the

Office Action compares with "find similar clips indicia including hidden criteria . . .," as recited in Claim 38).

The Office Action states that it would have been obvious for one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user). Appellants disagree.

Claim 38 recites:

38. An apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein the media clip database contains information, including find similar clips indicia and keywords associated with media clips in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said apparatus comprising:

- (a) a processing unit; and
- (b) a storage medium coupled to the processing unit, the storage medium storing program code implemented by the processing unit for displaying to a user an option for finding similar media clips that have associated find similar clips indicia hidden criteria, and/or a keyword that matches an associated keyword for a selected media clip, directly in response to the user selecting the media clip.

1. There Is No Motivation to Combine the Cited References

As discussed above in Part VIII.A.1, there is no motivation to combine Balogh and Cox to arrive at the claimed invention.

2. The Cited References, Even if Combined for the Sake of Argument, Still Fail to Teach or Suggest All of the Claim Limitations

The cited references, even if combined for the sake of argument, still fail to teach or suggest all of the claim limitations in Claim 38. First, appellants disagree with the Office Action's discussion of the teachings of Balogh. Balogh fails to teach or suggest "displaying to a

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user *an option for finding similar media clips* that have associated find similar clips indicia hidden criteria, and/or a keyword that matches an associated keyword for a selected media clip, directly in response to the user *selecting the media clip*." Referring to FIGURE 10, a flow diagram for a search engine process in accordance with the Balogh reference is shown. This flow diagram teaches a query arriving at an index service 1001, formulating a query 1012, matching the query against index data 1013, and returning matching images 1014. The query in Balogh begins with a user's input using standard keyword searching techniques. See, Col. 12, lines 9-11. Further, Col. 11, lines 53-67 state:

For example, a user may type a query in ordinary English, such as "red trucks". Additionally, a user may enter query data into bibliographic fields, specifying, for example, images produced by a particular artist or agency. Finally, a user may also limit a query based on image characteristics, such as predominant hue or image type, as described above in connection with FIG. 6.

Thus, Balogh teaches returning matches based only on words or language entered in a query. In contrast, the present invention teaches *beginning with a media clip* (rather than words or language), and retrieving information "in response to a user selecting a media clip."

Balogh purportedly teaches that information inquiries are processed as in conventional keyword searching techniques (Col. 12, lines 9-11), and that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59). However, Balogh does not disclose displaying to a user *an option* (for selection) for finding similar media clips, without entering a new query with new search language.

In addition, and more importantly, as described above in Part VIII.A.2, the Office Action admits that Balogh does not teach or suggest a "find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the

media clip," such as, for example, artistic style criteria, color criteria, or shape criteria. As fully discussed in Part VIII.A.2, this Balogh deficiency is not cured by the teaching of Cox.

H. Rejection of Claims 39-44 Under 35 U.S.C. § 103(a)

With respect to Claims 39-44, all of which depend directly or indirectly from Claim 38, it is clear that the subject matter of these claims is also not taught or suggested by the cited and applied references, namely, Balogh or Cox. Claims 39-44 all have limitations that are clearly not taught or suggested by any of the cited and applied references, particularly when the limitations are considered in combination with these recitations of the claims from which these claims individually depend. Thus, Claims 39-44 are submitted to be allowable for reasons in addition to the reasons why Claim 38 is submitted to be allowable.

IX. CONCLUSION

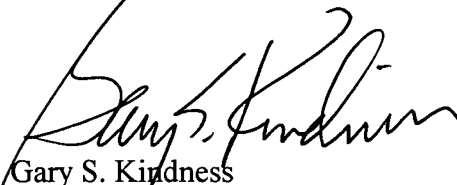
In view of the foregoing remarks, appellants submit that all of the claims in the present application are clearly patentably distinguishable over the teachings of Balogh et al. and Cox et al. In addition to the other differences, as discussed above, neither reference teaches or even remotely suggests a "find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip," a recitation included in all of the independent claims on Appeal. Therefore, it is submitted that the

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rejections of Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44 were erroneous, and reversal of this decision is respectfully requested.

Respectfully submitted,

CHRISTENSEN O'CONNOR
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: July 20, 2004 Carolyn Guise

GSK/ECP:cg

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X. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1. A method of searching a media clip database associated with a multimedia application program, wherein said media clip database contains information, including keywords and find similar clips indicia associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said method comprising:

(a) in response to a user selecting a media clip, retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from said media clip database;

(b) simultaneously presenting to the user for selection by the user:

(i) said keywords associated with said selected media clip; and

(ii) said find similar clips indicia associated with said selected media clip; and

(c) in response to the user creating search criteria by selecting one or more of said keywords and/or said find similar clips indicia associated with said selected media clip, retrieving all media clips in said media clip database that match the search criteria created by the user.

2. The method of Claim 1, further comprising presenting a user with all of the retrieved clips.

3. The method of Claim 2, further comprising, in response to a user selecting one of the retrieved clips and the user creating a search criteria for the newly selected clip, retrieving all clips in the clip database that match the search criteria for the newly selected media clip.

4. The method of Claim 1, further comprising presenting a plurality of media clips available for selection to a user.

5. The method of Claim 4, wherein the media clips are based on a media type.
6. The method of Claim 1, wherein said human judgment is based on artistic style.
7. The method of Claim 1, wherein said human judgment is based on color.
8. The method of Claim 1, wherein said human judgment is based on shape.
9. The method of Claim 1, wherein said human judgment is based on both color and shape.
11. The method of Claim 1, wherein the keywords are a list of keywords.
12. The method of Claim 1, wherein the keywords designate the format of the clip.
14. The method of Claim 1, wherein said retrieving all clips in said clip database that match the search criteria created by the user applies only to clips having a media type that matches the media type of the selected media clip.
15. A computer-readable medium having computer-executable instructions for performing the method recited in any one of Claims 1-9, 11, 12, or 14.
16. A method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information, including find similar clips indicia and keywords associated with media clips included in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said method comprising:

directly in response to a user selecting a media clip from said media clip database, displaying to the user an option for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip.
17. The method of Claim 16, wherein the user interface comprises:

- (a) a graphical indication of the selected clip; and
- (b) a button for the option for finding similar clips to the selected clip.

18. The method of Claim 16, further comprising, in response to a user selecting the option for finding similar clips, displaying means for the user to select search criteria for finding similar clips, wherein said search criteria includes a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with said selected clip.

19. The method of Claim 18, wherein means for the user to select search criteria for finding similar clips is a fly-out window.

20. The method of Claim 16, further comprising displaying to the user an option for inserting the selected clip into a document.

21. The method of Claim 16, further comprising displaying to the user an option for previewing the selected clip.

22. The method of Claim 16, further comprising displaying to the user an option to add the clip to one or more categories.

23. A computer-readable medium having computer-executable instructions for performing the method recited in any one of Claims 16-22.

24. An apparatus for searching a plurality of media clips, comprising:

- (a) a processing unit; and
- (b) a storage medium coupled to the processing unit, the storage medium

storing program code implemented by the processing unit for:

- (i) providing an interface for a user to select a media clip from a media clip database associated with a multimedia application program, wherein said media clip database contains information, including find similar clips indicia and keywords associated with media clips in said media clip database, said find similar clips indicia including hidden criteria

that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said apparatus;

(ii) providing an interface for the user to select search criteria based on find similar clips indicia and/or a keyword associated with said selected media clip; and

(iii) in response to the user selecting the media clip and the search criteria, retrieving all media clips in the media clip database that have associated find similar clips indicia and/or a keyword that matches the selected search criteria for the selected media clip.

25. The apparatus of Claim 24, wherein the program code further presents a user with all of the retrieved clips.

26. The apparatus of Claim 25, wherein the program code further retrieves all clips in the clip database that match a search criteria for a newly selected media clip, in response to a user selecting one of the retrieved clips and the user selecting the search criteria for the newly selected clip.

27. The apparatus of Claim 24, wherein the program code further presents a plurality of media clips available for selection to a user.

28. The apparatus of Claim 27, wherein the media clips are based on a media type.

29. The apparatus of Claim 24, wherein said human judgment is based on artistic style.

30. The apparatus of Claim 24, wherein said human judgment is based on color.

31. The apparatus of Claim 24, wherein said human judgment is based on shape.

32. The apparatus of Claim 24, wherein said human judgment is based on both color and shape.

34. The apparatus of Claim 24, wherein the keywords are a list of keywords.

35. The apparatus of Claim 24, wherein the keywords designate the format of the clip.

37. The apparatus of Claim 24, wherein said retrieving all clips in said clip database that match the search criteria for the selected media clip applies only to clips having a media type that matches the media type of the selected media clip.

38. An apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein the media clip database contains information, including find similar clips indicia and keywords associated with media clips in said media clip database, said find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip, said apparatus comprising:

(a) a processing unit; and

(b) a storage medium coupled to the processing unit, the storage medium storing program code implemented by the processing unit for displaying to a user an option for finding similar media clips that have associated find similar clips indicia hidden criteria, and/or a keyword that matches an associated keyword for a selected media clip, directly in response to the user selecting the media clip.

39. The apparatus of Claim 38, wherein the user interface comprises:

(a) a graphical indication of the selected clip; and

(b) a button for the option for finding similar clips to the selected clip.

40. The apparatus of Claim 38, wherein the program code displays means for a user to select search criteria that is based on find similar clips indicia and/or a keyword associated with said selected clip for finding similar clips, in response to the user selecting the option for finding similar clips.

41. The apparatus of Claim 40, wherein means for the user to select search criteria for finding similar clips is a fly-out window.

42. The apparatus of Claim 38 wherein the program code further displays to the user an option for inserting the selected clip into a document.

43. The apparatus of Claim 38 wherein the program code further displays to the user an option for previewing the selected clip.

44. The apparatus of Claim 38 wherein the program code further displays to the user an option to add the clip to one or more categories.